vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.39 OF 2005
IN
APPEAL FROM ORDER NO.311 OF 2004
IN
NOTICE OF MOTION NO.3666 OF 2003
IN
SUIT NO.6465 OF 1997

Kulwantsingh Prahladsingh Kohli ... Petitioner

V/s.

Chandrakant Karande & Anr. ... Respondents

Mr.Anil Singh i/b D.R. Shah for Petitioner
Mr.B.P. Shukla for Respondent No.1
Mr.Malvankar, representative of Court Receiver, present for Respondent No.2

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **SEPTEMBER 30, 2005**

P.C.:

. The Petitioner complains of a contempt of the order of this Court dated 12.7.2004. By this order, respondent No.1 undertook to maintain the suit premises in a good and habitable condition and further undertook that he would not make any addition and/or alterations in the suit premises. The Receiver has been appointed in respect of the suit premises and respondent No.1 is running the shop his agent. By Civil Application No.965 of 2004, respondent No.1 had sought permission to put up a weather shed to protect the premises from rain. This Court by an order dated 5.8.2004 permitted the weather

shed to be erected subject to the prior permission of the Municipal Corporation.

2. Respondent No.1 has filed an affidavit, which is taken on record. According to Respondent No.1, permission was sought from the Municipal Corporation. However, the Corporation had directed the respondent to get a No objection certificate from the landlord, the Petitioner herein. Mr.Singh, learned Advocate appearing for the Petitioner, states that nobody has approached the landlord at all and, therefore, the statement of Respondent No.1 is incorrect.

3. Heard. Considering the facts and circumstances of the case, Respondent No.1 is directed to remove the wooden box and plastic weather shed which has been put up by him according to the Receiver’s report by 31.10.2005. However, Respondent No.1 is free to make appropriate applications to the Mumbai Municipal Corporation for permission erect up the same. It is made clear that these structures must be removed by 31.10.2005. Mr.Singh states that if any application is made to the landlord for a no objection certificate, the landlord will consider the same in accordance with law.

4. Contempt Petition is disposed off in the above

terms.